

APPEAL NO. 032945
FILED DECEMBER 15, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 23, 2003. The hearing officer resolved the disputed issues by deciding that the compensable injury of _____, includes an injury to the left shoulder consisting of a sprain/strain and a lumbar annular tear at the L5-S1 level, but does not include an injury to the left shoulder consisting of impingement and bursitis/tendonitis, the cervical area or the lumbar spine consisting of degenerative disc disease, and a disc bulge/protrusion at the L5-S1 level; and that the claimant did not have disability resulting from the compensable injury of _____. The appellant (claimant) appealed, disputing that portion of the extent-of-injury determination that was adverse to the claimant as well as the disability determination. The claimant argued that the hearing officer erred by incorrectly applying the law and making determinations so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. The respondent (carrier) responded, urging affirmance of the disputed determinations.

DECISION

Affirmed.

The hearing officer did not err in her extent-of-injury and disability determinations. The claimant had the burden of proof on both issues and they presented questions of fact for the hearing officer. There was conflicting evidence presented on the disputed issues. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, while the hearing officer was persuaded that the claimant sustained his burden of proving that his compensable injury included an injury to the left shoulder consisting of a sprain/strain and a lumbar annular tear at the L5-S1 level, she was not persuaded that the claimant sustained his burden of proving that the compensable injury included an injury to the left shoulder consisting of impingement and bursitis/tendonitis, the cervical area or the lumbar spine consisting of degenerative disc disease, and a disc bulge/protrusion at the L5-S1 level, or that he had disability, as a result of his compensable injury. The hearing officer was acting within her province as the finder of fact in so finding. Nothing in our review of the record reveals that the challenged determinations are so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge